Remarks

The present Response is to the Office Action mailed 10/01/2008. Claims 1-9, 11-16, and 18-26 are standing for examination.

Claim Rejections - 35 USC § 101

Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As an initial matter, the United States Constitution under Art. I, Section, cl. 8 gave Congress the power to "promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries". In carrying out this power, Congress authorized under 35 U.S.C. § 101 a grant of a patent to "[w]whoever invents or discovers any new and useful process, machine, manufacture, or composition or matter, or any new and useful improvement thereof'. Therefore, a fundamental premise is that a patent is a statutorily created vehicle for Congress to confer an exclusive right to the inventors for "inventions" that promote the progress of "science and the useful arts". Further, despite the express language of § 101, several judicially created exceptions have been established to exclude certain subject matter as being patentable subject matter covered by § 101. These exceptions include "laws of nature", "natural phenomena" and "abstract ideas". See *Diamond* v. *Diehr,* 450, USPQ 175, 185,209 USPQ (BNA) 1, 7 (1981). However, the courts have found that even if an invention incorporates abstract ideas, such as mathematical algorithms, the invention may nevertheless be statutory subject matter if the invention as a whole produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co.* v. *Signature Financial Group, Inc.* 149 F.3d 1368,1973,47 USPQ2d (BNA) 1596 (Fed. Cir. 1998).

Claims 1-9 are rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2)

transform underlying subject matter (such as an article or materials) to a different state or thing. Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, applicant's claims recite a software module which is not within the statutory classes of invention and the recited functions are viewed as functions that fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be performed without the use of a particular apparatus. Thus, claims 1-40 as claimed are non-statutory since they may be preformed within the human mind.

Applicant's response:

Applicant herein amends claim 1 and the depending claims to be consistent with claim 1. Claim 1, as amended, provides a suite of software modules installed on and executing from a digital memory of a computer appliance, the software suite comprising a plurality of software modules; wherein the data manipulated and displayed is data retrieved from external business Web sites where an individual user holds accounts requiring at least the individual's user name and password to access the data, and the software modules are selectively interlinked and enabled to communicate with other modules exchanging data in such a way that the data incorporated in the software modules may be affected by actions performed in the other related modules, and the user is enabled to navigate and conduct transactions and reporting between the modules via the single user interface.

Applicant argues that the claims, as amended, are now statutory as a computer machine is provided including software providing an interface enabling communication

between modules for a user to manipulate data, conduct transactions and generate reports between modules. Therefore, applicant believes a tangible result is achieved and the 101 rejection should be withdrawn.

Claim Rejections - 35 USC § 112

2. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1, line 14, "the aggregated data" lacks clear antecedent basis.

As per claim 2, line 1, "the data-packet network" lacks clear antecedent basis.

Claims not directly addressed are rejected based on their dependencies.

3. Claims 1-9, 11-16 and 18-26 are allowable over the art of record.

Applicant's response:

Applicant herein amends claim 1 to recite "account data" in lieu of "aggregated data". Applicant also inserts the term "data-packet-network" in order to provide antecedent basis for claim 2. Applicant believes the 112 rejection should now be withdrawn. Applicant believes claims 1-9, 11-16 and 18-26 are in condition for allowance as indicated by the Examiner.

The applicant acknowledges the examiner's statement in paragraph 3 that claims 1-9, 11-16 and 18-26 are allowable over the art of record.

Summary

As all of the claims, as amended and argued above, have been shown to be patentable over the art presented by the Examiner, applicant respectfully requests reconsideration and the case be passed quickly to issue.

If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully Submitted,
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